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Supreme Court, U.S.
FILED

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No. _____

In The

Supreme Court of the United States

In Re JAMES FREDERICK DuVALL

On Petition For A Writ of Mandamus
To The United States District Court
For The Southern District of Texas
McAllen Division

PETITION FOR A WRIT OF MANDAMUS

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34 pp

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QUESTION PRESENTED

1. **Whether the district court abused its discretion in its exercise of judicial power in a transfer order entered in contravention of procedural due process rights and without any substantiating evidence in M-02-200, *Catherine Lockard Hoke, et.al. v. James Frederick DuVall, United States District Court for the Southern District of Texas, McAllen Division*, when after removing this action from a Mississippi State court for reason of diversity of citizenship of parties, and in accordance with 28 U.S.C. § 1331 and 28 U.S.C. § 1441 (b, c), with removal being to its own district court which had jurisdiction over the sole defendant at his residence, could then transfer venue and jurisdiction to another district court, the *United States District Court for the Southern District of Mississippi, Biloxi Division*, where the action could not have been originally brought and where that district court did not have jurisdiction over the sole defendant; the transferor district court asserting transfer was proper in accordance with 28 U.S.C. 1406(a) to cure a defect in venue under that statute, with the transfer being to another district court of equal authority.**

2. **Whether the Court of Appeals for the Fifth Circuit abused its discretion when it dismissed petitioner's challenge to the district court's transfer order as frivolous**

and imposed sanctions when petitioner alleged that the district court's transfer order was unlawful..

3. **Whether minimum due process required the McAllen, Texas, district court to allow petitioner access-to-the courts to be heard before its *sua sponde* order of transfer.**

4. **Whether minimum due process required the Court of Appeals for the Fifth Circuit to allow petitioner access-to-the-court to be heard on his challenge to the transfer order before dismissal of petitioner's unconsidered challenge to the transfer order and application of monetary sanction for filing said challenge.**

5. **Whether the remedy of mandamus is found by this Court to be an appropriate remedy in an unlawful transfer of an action from a district court with jurisdiction over a sole defendant (petitioner) to a district court in another State that lacks jurisdiction over petitioner.**

6. **Whether a function of the Court of Appeals for the Fifth Circuit is to determine the appropriate criteria for jurisdiction and venue in transfer orders challenged as being unlawful in the course of an interlocutory appeal.**

PARTIES TO THE PROCEEDINGS

JAMES FREDERICK DuVALL, sole defendant (petitioner), a resident of the State of Texas;

RESPONDANT: HONORABLE RANDY CRANE, Judge for the United States District Court for the Southern District of Texas, McAllen Division

CATHERINE LOCKARD HOKE, resident of the State of Virginia;

JOHN T. LOCKARD, resident of the State of Mississippi

MARY E. LOCKARD, resident of the State of Louisiana;

JAMES C. LOCKARD, resident of the State of Texas, in the same federal district as sole defendant DuVALL;

L. LANARK LOCKARD, resident of the State of Virginia;

CATHERINE LOCKARD BILLINGSLEY, resident of the State of Alabama;

THOMAS E. LOCKARD, resident of the State of Alabama;

EDWARD CLINTON, resident of the State of Louisiana;

SUZANNE D. FAGAN, resident of the State of Louisiana;

DONZEL D. LANGSTON, resident of the State of Louisiana.

CORPORATE DISCLOSURE STATEMENT

There are no corporate parties to this action.

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PETITION FOR WRIT OF MANDAMUS

Petitioner respectfully petitions this Court that a writ of mandamus issue from this Court directed to the Honorable United States District Court for the Southern District of Texas, McAllen Division, and to the Honorable Randy Crane, Judge of said Court, requiring said Honorable Randy Crane, to show cause on a day fixed by this Court why mandamus should not issue from this Court directing said Honorable Randy Crane to vacate his order of transfer filed June 11, 2002 in M-02-200, styled: *Catherine Lockard Hoke, et.al. v. James Frederick DuVall, M-02-200, United States District Court for the Southern District of Texas, McAllen Division;* which district court should maintain venue and jurisdiction for all proceedings and trial.

Further, petitioner respectfully petitions this Court to direct the Court of Appeals for the Fifth Circuit to vacate its Mandate and Judgment in: *02-40972, Catherine Lockard Hoke, et.al. v. James Frederick DuVall, filed August 15, 2002,* in order to give full force and effect to vacating and remanding the June 11, 2002, transfer order of the McAllen, Texas District Court.

OPINIONS BELOW

On May 30, 2002, District Judge Randy Crane, of the United States District Court for the Southern District of Texas issued an order removing the original suit from the Chancery Court for Jackson County, Pascagoula, Mississippi, to his court in McAllen, Texas.

On June 7, 2002, District Judge Randy Crane of the Southern District of Texas issued a *sua sponde* order, pursuant to 28 U.S.C. 1406(a), transferring the suit to the United States District Court for the Southern District of Mississippi, Biloxi Division. [1]

On July 1, 2002, Petitioner DuVall, appealed to the Court of Appeals for the Fifth Circuit, challenging as unlawful, the transfer order to the United States District Court for the Southern District of Mississippi, Biloxi Division; the Court of Appeals for the Fifth Circuit advised petitioner by letter dated July 10, 2002, that: *"We are not processing your brief because it is premature* [no documents having yet been received from the McAllen, Texas District Court] *We will issue a notice*

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[1] **APPENDIX I, page 17**

advising you of the next procedural step necessary to process your appeal". [2]

On September 6, 2002, without petitioner being allowed to appear and be heard in any court processing this action and taking actions adverse to petitioner's interests, the Court of Appeals for the Fifth Circuit issued its Mandate, that said:

IT IS ORDERED that Appellees' motion to dismiss appeal is GRANTED

IT IS FURTHER ORDERED that Appellees' motion for sanctions under Rule 38 of the Federal Rules of Appellate Procedure is GRANTED in the amount of double costs and $500.00 attorney fees. [3]

On September 11, 2002, petitioner filed his Notice of Appeal to the United States Supreme Court, but long after the case had been physically transferred to the United States District Court for the Southern District of Mississippi, Biloxi Division, and the McAllen, Texas, District Court had lost all jurisdiction over the case, that Court ordered on September 24, 2002, that:

"It is therefore ORDERED and ADJUDGED that Plaintiff's "Notice of Interlocutory Appeal By Right To The

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[2] **APPENDIX II, page 18**
[3] **APPENDIX III, page 19**

United States Supreme Court" be dismissed for lack of jurisdiction. The District Court Clerk is hereby ORDERED to provide a copy of this Order to the Plaintiff, Defense counsel, and the Clerk of the United States Supreme Court. [4]

JURISDICTION

This Court's jurisdiction is per Article III, Section 2 of the Constitution of the United States and per Rule 20.1, as authorized by 28 U.S.C. 1651(a), in re aid of the Supreme Court's appellate jurisdiction in the exceptional circumstances of petitioner being denied access-to-courts to be heard in order for petitioner to pray to enjoin a violation of 28 U.S.C. 1331, 28 U.S.C. 1441(b & c), and 18 U.S.C. 1965 (a & d), as well as Rule 17(b) [5] of the Federal Rules of Civil Procedure, referencing the venue provisions of the Texas Commercial & Business Code as contained in Section 17.56 which says: *"... that venue is only proper in the county in which the defendant ... resides; ..."*.

This petition for mandamus is a remedy that calls upon the Supreme Court to act in its appellate capacity to revise and correct error in the proceedings in an already

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[4] **APPENDIX IV, page 21**
[5] **APPENDIX V, page 23**

instituted cause, the Supreme Court, in this instance, acting under its authority to review and correct error in the district court's exercise of judicial power where through the district court violated the judicial code provisions of 28 U.S.C. 1331, 28 U.S.C. 1441(b & c), and 18 U.S.C. 1965 (a & d) as well as denied petitioner his Constitutional right to be heard in the exceptional circumstances of the trial court's denial of access-to-the-courts, accompanied by a *sue sponde* transfer order from the United States District Court for the Southern District of Texas, McAllen Division, to a Mississippi district court; as well as a similar summary denial at the appellant court level of access-to-the-courts, and at that level, accompanied with imposition of monetary sanctions in the exceptional circumstance of the Court of Appeals for the Fifth Circuit declining to hear or consider the appeal of petitioner regarding the district court's *sue sponde* transfer order; petitioner has no other remedy available except to this Court and petitioner is now asking this Court to direct the United States District Court for the Southern District of Texas, McAllen Division, and the Honorable Randy Crane, District Judge of that Court, to vacate the order of transfer in this matter, dated June 10, 2002, this Court also directing that this cause be remanded to the United States District Court for the Southern District of Texas,

McAllen Division, to conduct all further proceedings and trial.

The peremptory writ of mandamus has traditionally been used to confine an inferior court to a lawful exercise of its prescribed jurisdictions or to compel it to exercise its authority when it is its duty to do so, *Kerr v. U.S. District Court, 426 U.S. 394 (1976); Will v. United States, 389 U.S. 90, 95 (1967);* and *Roche v. Evaporated Milk Assn., 319 U.S. 21, 26 (1943)* because the exceptional circumstances of a denial of access-to-the-courts, as cited herein, does not provide any remedy via a normal appellate route for petitioner, who has been denied access to any federal court from the time of the McAllen, Texas district court receiving his motion to remove a State court action, with its federal questions and diversity of parties for venue and jurisdiction in that district court.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

This case involves the Fifth and Fourteenth Amendments to the United States Constitution as regards "due process" and what process is due before an action inimical to a citizen's interest is taken, without the

citizen being allowed to be heard, particularly when such an action can not be readily corrected after final court action.

In addition, well settled provisions of the judicial code are being disobeyed regarding statutory venue provisions that deter *remote forum abuse,* as contained in 28 U.S.C. 1331, [6] 28 U.S.C. 1441(b & c) [7] ; as well as the venue provisions contained in 18 U.S.C. 1965 (a & d) [8] ; further the venue provisions in Rule 17(b) [9] of the Federal Rules of Civil Procedure require Texas federal courts to follow Texas State law in this instance, as contained in Section 17.56 of the Texas Commercial & Business Code regard suit venue, as *Griffin v. McCoach, 313 U.S. 498, 503* clearly held: "*that federal courts in diversity of citizenship cases are to apply the laws of the states in which they sit.*".

STATEMENT OF FACTS

The original lawsuit brought against sole defendant DuVall (petitioner) in the Chancery Court of Jackson County, Mississippi, was filed by ten plaintiffs, only one

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[6] **APPENDIX III, page 19**
[7] **APPENDIX III, page 19**
[8] **APPENDIX II, page 18**
[9] **APPENDIX I, page 17**

of whom actually resided in Mississippi, but all ten (10) plaintiffs jointly and severely alleged they were "*tenants-in-common*", having adverse possession ownership of all of certain undeveloped residential lots, plaintiffs averring that they had been in individual, jointly and severally, adverse collective possession of the property in question for the entire statutory required period of the last ten (10) years, as necessary under Mississippi laws to assert a claim for adverse possession ownership; and through plaintiffs' "*tenants in common enterprise*", plaintiffs asked as their suit remedy that the Chancery Court award, with NO consideration to the sole defendant, all current and future: rights, title, and interest in specific unimproved residential lots located in Pascagoula, Mississippi; lots in which petitioner owned an 1/12 undivided interest.

Only one of the ten individuals making up the "*tenants in common enterprise*" was actually a Mississippi resident; ALL of the other nine (9) plaintiffs are residents of other States and NONE of these remaining nine (9) plaintiffs have agreed to place themselves under the Mississippi Chancery Court or the Mississippi district court's jurisdiction; plaintiffs have further admitted that eight (8) of the ten (10) individuals making up and directing portions of the activities of the "*tenants in common*

enterprise" did NOT <u>themselves</u> actually have the statutorily required ten (10) years of adverse possession occupancy; eight (8) of these _tenants in common_ plaintiffs only had a possible property occupancy running from 28 days to about three (3) years, said remainder of the required ten (10) years of occupancy, plaintiffs jointly asserted, accrued to their possession and interest through the purported and undocumented desires of ancestors or other deceased relatives.

All ten (10) of the plaintiffs claimed their individual adverse possession of the Mississippi lots was being maintained from their residences in other States.

On advice of their counsel, and through a RICO conspiracy by plaintiffs and one of their three attorneys, EDDIE C. WILLIAMS, of Pascagoula, Mississippi; they had prepared and filed the original suit in the remote forum Chancery court of Pascagoula, Mississippi, where only a single plaintiff resided, plaintiffs filing in that State so their "_tenants in common enterprise_" could bring suit against a sole defendant (petitioner) who resided over a thousand miles away in the State of Texas; petitioner claims this invoked federal diversity venue.

This *"tenants in common enterprise"*, knowing that petitioner was in his 70's, severely handicapped, wheelchair confined, and has a very small income; apparently assumed petitioner was unlikely to know that the Mississippi adverse possession route to property ownership had conditions that eight (8) of the individual tenants in common knew that they did not meet, so these eight (8) plaintiffs, in collusion with the other two (2) plaintiffs and Attorney, Eddie C. Williams, pled in their original suit Complaint, deliberate and knowingly false statements regarding their adverse property possession duration as a *"tenants in common enterprise"*, as well as knowingly made false claims of individual periods of adverse possession occupancy.

Petitioner believes it is logical to assume that the Mississippi Court venue was selected to make it virtually a physical impossibility for handicapped petitioner to appear in Mississippi to defend against plaintiffs' Complaint, as well as plaintiffs knowing that such a suit would be a major economic burden on petitioner so as to deter any defense by him, regardless of the merits of his defense, in order that petitioner avoid the large economic burden of travel expenses, such travel expenses being associated with the "paper storm" of plaintiffs' many motions requiring courtroom appearances; as evidence

of this, petitioner points to the nine (9) motions filed by one of plaintiffs' three attorneys, where that attorney was not a member of the State's Bar where the motions were filed and had not been authorized to appear *pro hac vice;* but petitioner, a *pro se*, had the burden of responding to these filings, even after determining through legal research that such filing should be held to be null and void, subject to the trial court's discretion to allow them to be admitted, such discretion would be all that was between the *pro se* and the granting of such motions, for if they were not laboriously answered, a dismissal of his defense would occur – certainly this was an abuse of process by plaintiff's counsel, much like a remote forum suit filing.

The actions of the United States District Court for the Southern District of Texas, McAllen Division and the actions of the Court of Appeals for the Fifth Circuit would seem to indicate a Constitutionally prohibited *civil pro se* policy to deny access-to-the-courts to this class of parties in the instances of transfer order challenges; the district court would not even allow petitioner to be heard before adverse court action was taken against his interests, and when such action was appealed, the appeals court would not hear or consider the merits of

petitioner's contentions, [10] but instead summarily dismissed petitioner's appeal and applied monetary sanction for even filing such an appeal. [11]

The actions of the Texas district court and the appeals court protected plaintiffs from provisions of the judicial code and federal statues in this diversity venue matter by simply not allowing petitioner to be heard; this seriously undermines the ability of a citizen who can not afford the services of an attorney to exercise a defendant's right to appear and ask a federal court to remedy a wrong.

The writ of mandamus sought should require the United States District Court for the Southern District of Texas, McAllen Division, to maintain venue and jurisdiction for all proceedings and a trial of this matter.

REASONS FOR GRANTING THE WRIT

A. Standards for the Issuance of a Writ of Mandamus

"The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). Under

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[10] **APPENDIX V, page 23**
[11] **APPENDIX VI, page 24**

the law of this court, "*the petition must show that the writ will be in aid of the Court's appellate jurisdiction....*" Sup. Ct. R. 20. However, "*we have not limited the use of mandamus by an unduly narrow and technical understanding of what constitutes a matter of jurisdiction....*" *Mallard v. U.S. Dist. Court for Southern Dist. of Iowa, 490 US. 296, 109 S.Ct. 1814, 1822 (1989)* (internal citations and quotations omitted). The petitioner seeking issuance of a writ of mandamus may do so by demonstrating that the district court has clearly abused its discretion. *See id.* The petitioner must also demonstrate a lack of alternative means to obtain the sought after relief. *See id.*

B. Petitioner has established that a writ of mandamus would be in aid of this Court's appellant jurisdiction; that there has been a clear Constitutional abuse of discretion by both the district court and the Court of Appeals in not allowing petitioner to be heard before taking actions adverse to his interests; also, there is no alternative means for petitioner to obtain relief, except in this Court, all other remedies having been exhausted.

The remedy of mandamus has been found by this Court to be appropriate in the unlawful transfer of a case to another district court, *Hoffman v. Blaski, 363 U.S. 335*

(1960); Van Dusen v. Barrack, 376 U.S. 612, 615n3 (1964) because the function of the appellate court is to determine the appropriate criteria for jurisdiction and venue, although this Court has otherwise left undecided the scope of the writ in those cases and such transfers have been a source of lower court conflict, *Morehead v. Barksdale, 263 S. 2d 117 (4th Cir. 1959); McGraw – Edison Company v. Van Pelt, 350 F.2d 361 (8th Cir. 1965)* with some courts feeling that interlocutory review by way of mandamus may be the only route available for meaningful review in an unlawful transfer, in view of the dilution of the transfer order's reviewability after a case has been tried and determined.

This action could not have originally been brought in the Biloxi, Mississippi, district court for three reasons: ONE, no defendant resided in the State of Mississippi, or in the federal district comprising its jurisdiction; and TWO, nine (9) of the ten (10) plaintiffs who comprised the *tenants in common enterprise,* were not residents or domiciled in the State in which suit was brought; and THREE, none of those nine (9) plaintiffs was willing to accept the jurisdiction of the Biloxi, Mississippi, district court; since the action could not have been brought in that district court; it was an abuse of discretion to transfer the action to that court.

Transfer was authorized by the United States District Court for the Southern District of Texas, McAllen Division to correct a defect in venue via 28 U.S.C. 1406(a) but that court did not specify any defect in venue and transfer to a court without jurisdiction over any defendant was an abuse of discretion; further, venue should have been determined by State law, in accordance with Rule 17(b), Federal Rules of Civil Procedure and 28 U.S.C 1331; 28 U.S.C 1441(b, c); and 18 U.S.C. 1965(a, d) because original jurisdiction on the substantial federal questions raised by petitioner was in the federal courts with jurisdiction over the domicile of the sole defendant.

CONCLUSION

For the foregoing reasons, Petitioner, JAMES FREDERICK DuVALL, prays:

That a writ of mandamus issue from this Court directed to the Honorable United States District Court for the Southern District of Texas, McAllen Division, and to the Honorable Randy Crane, Judge of said Court, requiring said Honorable Randy Crane, to show cause on a day to be fixed by this Court why mandamus should not issue from this Court directing said Honorable Randy Crane

to vacate and expunge from the record the order of June 10, 2002, transferring this action *Hoke v. DuVall, M 02-cv-200,* to the United States District Court for the Southern District of Mississippi, Biloxi Division.

That petitioner have the additional relief that the judgment of the United States Court of Appeals for the Fifth Circuit in *DuVall v. Hoke, 02-40972, dated August 15, 2002*, be reversed and petitioner be granted such additional relief and process as may be necessary and appropriate in the premises, including all of petitioner's out of pocket costs associated with plaintiffs/respondents efforts to uphold the transfer of this action away from the United States District Court for the Southern District of Texas, McAllen Division, and including petitioner's subsequent appeal costs.

Respectfully submitted,

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APPENDIX I

RULE 17(b)
FEDERAL RULES OF CIVIL PROCEDURE

Rule 17(b) – Capacity to Sue or be Sued. The capacity of an individual, other than one acting in a representative capacity, to sue or be sued shall be determined by the law of the individual's domicile. The capacity of a corporation to sue or be sued shall be determined by the law under which it was organized. In all other cases capacity to sue or be sued shall be determined by the law of the state in which the district court is held, except (1) that a partnership or other unincorporated association, which has no such capacity by the law of such state, may sue or be sued in its common name for the purpose of enforcing for or against it a substantive right existing under the Constitution or laws of the United States, and (2) that the capacity of a receiver appointed by a court of the United States to sue or be sued in a court of the united States is governed by Title 28, U.S.C., Sections 754 and 959(a).

APPENDIX II

TITLE 18 – CRIMES AND CRIMINAL PROCEDURE
PART I – CRIMES

CHAPTER 96 – RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS

Sec. 1965. Venue and process

(a) Any civil action or proceeding under this chapter against any person may be instituted in the district court of the United States for any district in which such person resides, is found, has an agent, or transacts his affairs.

(d) All other process in any action or proceeding under this chapter may be served on any person in any judicial district in which such person resides, is found, has an agent, or transacts his affairs.

APPENDIX IH

TITLE 28 – JUDICIARY AND JUDICIAL PROCEDURES
PART IV – JURISDICTION AND VENUE

28 U.S.C. Sec. 1331. Federal Question

The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States. (internal citations omitted).

28 U.S.C. Sec. 1406. Cure or waiver of defects

(a) The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.

28 U.S.C. Sec. 1441. Actions removable generally

(b) Any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties or laws of the United States shall be removable without regard to the citizenship or residence of the parties. Any other such action shall be removable only if none of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.

(c) Whenever a separate and independent claim or cause of action within the jurisdiction conferred by section 1331 of this title is joined with one or more otherwise non-removable claims or causes of action, the entire case may be removed and the district court may determine all issues therein, or, in its discretion, may remand all matters in which State law predominates.

APPENDIX IV

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

CATHERINE L. HOKE, et al.	§	
	§	**Civil Action**
vs.	§	**No.**
	§	**M-02-200**
	§	
JAMES FREDERICK DUVALL	§	

ORDER OF TRANSFER
Filed June 10, 2002

This cause was improperly removed to this court from the Chancery Court, Jackson County, State of Mississippi. Accordingly, on the Court's own motion this cause is hereby transferred to the United States District Court for the Southern District of Mississippi, Southern Division, pursuant to 28 USC § 1406(a) to conduct all further proceedings, including consideration of all pending motions as well as final judgment. All prior orders from this Court are hereby vacated.

The clerk of this court is Ordered to promptly effectuate the transfer of this cause and to provide notice of same to all counsel/parties of record.

ENTERED this 10th day of June, 2002, at McAllen, Texas.

HON. RANDY CRANE
UNITED STATES DISTRICT JUDGE

APPENDIX V

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

CHARLES R. FULBRUGE III
CLERK

TEL. 504-310-7700
600 CAMP STREET
NEW ORLEANS, LA 70130

July 10, 2002

Mr. James Frederick Duvall
Lot 185
2500 E. Business Highway 83
El Valle del Sol RV Park
Mission, TX 78572

No. 02-40972 Hoke v. Duvall
USDC NO. M-02-CV-200

We are not processing your brief because it is premature. We will issue a notice advising you of the next procedural step necessary to process your appeal.

Sincerely,

CHARLES R. FULBURGE III, Clerk

By: _____
Connie A. Caluda, Deputy Clerk

cc: Mr Eddie C Williams
Mr Sean D Fagan
Mr George Davidson Fagan

BR-9

APPENDIX VI

IN THE UNITED STATES COURT OF APPEALS

FOR THE FIFTH CIRCUIT

No. 02-40972

CATHERINE LOCKARD HOKE; JOHN T LOCKARD; MARY E LOCKARD; JAMES C LOCKARD; L LANARK LOCKARD; CATHERINE LOCKARD BILLINGSLEY; THOMAS E LOCKARD; EDWARD CLINTON; SUZANNE DUVALL FAGAN; DONZEL MCMAIN DUVALL LANGSTON

Plaintiffs – Appellees

v.

JAMES FREDERICK DUVALL

Defendant – Appellant

Appeal from the United States District Court for the Southern District of Texas, McAllen

---

ORDER
Filed August 15, 2002

Before JOLLY, EMILIO M. GARZA, and PARKER, Circuit Judges.

IT IS ORDERED that Appellees' motion to dismiss appeal is GRANTED.

IT IS FURTHER ORDERED that Appellees' motion for sanctions under Rule 38 of the Federal Rules of Appellate Procedure is GRANTED in the amount of double costs and $500.00 attorneys fees.

Issued as Mandate: SEP 06 2002

Entered for the Court
CHARLES R. FULBRUGE III, Clerk

Certificate of Service

I, FRED DuVALL, Petitioner, certify that all parties required to be served have been served on November 27, 2002, by placing a copy of all documents, including any: Orders, Exhibits, and/or other Attachments, in the United States Postal Service by First Class Mail with postage prepaid, including service to Respondent, Honorable Randy Crane, and the Counsel of Record for all Plaintiffs/Respondents, George D. Fagan, in accordance with Rule 29.

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